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Testimony of the Department of Commerce and Consumer Affairs

**Before the
Senate Committee on Commerce and Consumer Protection
Friday, February 13, 2026
9:30 a.m.
State Capitol, Conference Room 229 & Via Videoconference**

**On the following measure:
S.B. 2949, RELATING TO INSURANCE**

Chair Keohokalole, Vice Chair Fukunaga, and Members of the Committee:

My name is Scott K. Saiki, and I am the Insurance Commissioner of the Department of Commerce and Consumer Affairs' (Department) Insurance Division. The Department offers comments on this bill.

The purpose of this bill is to establish the Ombudsman's Office for Homeowners Insurance within the Department of Commerce and Consumer Affairs; establish the Ombudsman's Office for Homeowners Insurance Special Fund; and appropriate funds.

Potential Conflict With the Insurance Division's Regulatory Role

The Insurance Division is charged with regulating insurers and ensuring their solvency for the protection of all policyholders statewide. Establishing an Ombudsman's Office within the Insurance Division that is empowered to intervene in disputes, conduct enforcement, and impose penalties may create tension with the Division's existing role as a neutral regulator. The Department recommends careful

consideration of whether an ombudsman function would be better situated outside of the Division's regulatory structure to avoid unintended conflicts.

Duplication of Existing Authority

Many of the powers assigned to the proposed Ombudsman's Office appear to overlap with authority the Insurance Commissioner already holds under Chapter 431, HRS, including investigations, enforcement actions, subpoenas, and complaint resolution. For example, the bill authorizes the ombudsman to conduct investigations, levy penalties, and compel testimony and documents. The Commissioner already possesses similar enforcement authority under existing law. The Department suggests clarifying how this new office would coordinate with, rather than duplicate, existing regulatory responsibilities.

Confidentiality and Records Access Concerns

The bill provides the Ombudsman's Office with access to "all files and records" of the Department. Because many Insurance Division records are confidential by statute, expanding access beyond current regulatory channels could raise privacy and security concerns.

Mandatory Participation and Contested Case Structure

The bill requires mandatory participation by all parties in dispute intervention proceedings and contested case hearings, with fines for refusal. The Department notes that this structure may introduce a parallel adjudicatory system within the Division and could create procedural and due process questions that warrant additional clarification.

Fiscal and Administrative Considerations

The Department also notes that establishing a new Ombudsman's Office, including staffing, enforcement personnel, contested case procedures, and administrative infrastructure, will require significant resources. The bill appropriates unspecified general funds for fiscal year 2026–2027, and the Department recommends

that the Legislature carefully evaluate the projected start-up costs, long-term funding needs, and potential ongoing administrative burdens associated with creating a separate office.

For these reasons, the Department respectfully requests that this measure be deferred to allow all parties to analyze this proposal and ensure that any ombudsman framework complements existing regulatory functions, avoids duplication, and does not create unintended conflicts of law.

Thank you for the opportunity to testify.

P.O. Box 976
Honolulu, Hawaii 96808

February 10, 2026

Honorable Jarret Keohokalole
Honorable Carol Fukunaga
Committee on Commerce and Consumer Protection
415 South Beretania Street
Honolulu, Hawaii 96813

Re: **SB 2949 OPPOSE**

Dear Chair Keohokalole, Vice Chair Fukunaga and Committee Members:

CAI opposes SB 2949. The bill is a redundant "solution" in search of a problem. SB 2949 also appears patterned after various condominium ombudsman proposals. It may be an entering wedge for future pursuit of such proposals.

The Hawaii Insurance Division:

Oversees the Hawaii insurance industry; issues licenses, examines the fiscal condition of Hawaii-based companies, reviews rate and policy filings, **investigates insurance related complaints**.¹

<https://cca.hawaii.gov/ins/> (Emphasis added) Hawaii Revised Statutes Section 431:2-201 empowers the Insurance Commissioner as follows:

§431:2-201 General powers and duties. (a) The commissioner shall have the authority expressly conferred upon the commissioner by or reasonably implied from the provisions of this code.

(b) The commissioner shall execute the commissioner's duties and shall enforce this code.

(c) The commissioner may:

(1) Make reasonable rules for effectuating any provision of this code, except those relating to the commissioner's appointment, qualifications, or compensation. The commissioner shall adopt rules to effectuate article 10C of chapter 431, subject to the approval of the governor's office and the requirements of chapter 91;

¹ https://cca.hawaii.gov/ins/consumers/filing_a_complaint/

Honorable Jarret Keohokalole
Honorable Carol Fukunaga
February 10, 2026
Page 2 of 2

(2) Conduct examinations and investigations to determine whether any person has violated any provision of this code or to secure information useful in the lawful administration of any provision;

(3) Require applicants to provide fingerprints and pay a fee to allow the commissioner to make a determination of license eligibility after obtaining state and national criminal history record checks from the Hawaii criminal justice data center and the Federal Bureau of Investigation;

(4) Require, upon reasonable notice, that insurers report any claims information the commissioner may deem necessary to protect the public interest; and

(5) Upon showing of good cause, waive or modify, in whole or part, any or all fees by order. (Emphasis added)

The point is that SB 2949 would be redundant and serve no credible purpose. The proposed ombudsman would be empowered, without limitation, to: "assist in resolving a dispute prior to any party submitting a formal request for dispute intervention". It is never quite clear what such disputes might entail or why existing authorities are inadequate.

No such proposal should be considered absent a demonstrated need, which SB 2949 does not even purport to provide.

It is also notable that the proposed ombudsman is to be above the law, in that: "No proceeding or decision of the ombudsman may be reviewed by any court unless the proceeding or decision contravenes this chapter."

Precluding judicial review would present a serious separation of powers issue, and would contravene the constitutional right to trial by jury.

Please, therefore, defer SB 2949.

CAI Legislative Action Committee, by

Its Chair

SB-2949

Submitted on: 2/7/2026 2:59:26 PM

Testimony for CPN on 2/13/2026 9:30:00 AM

Submitted By	Organization	Testifier Position	Testify
Richard Emery	Testifying for Associa	Oppose	Written Testimony Only

Comments:

The Legislature has done a great job in tackling recent insurance issues that are beyond everyone's control. This only adds more cost someone will have to pay for with no apparant benefit. Oppose.

Hawai'i State Legislature
Senate Committee on Commerce and Consumer Protection

February 11, 2026

Filed via electronic testimony submission system

RE: SB 2949, Establishes the Ombudsman's Office for Homeowners Insurance - NAMIC's Testimony in Opposition

Thank you for providing the National Association of Mutual Insurance Companies (NAMIC) an opportunity to submit written testimony to your committee for the February 13, 2026, public hearing. Unfortunately, I will not be able to attend the public hearing, because of a previously scheduled professional obligation.

The National Association of Mutual Insurance Companies (NAMIC) is the foremost trade association representing the property/casualty insurance industry. Serving more than 1,300 member companies - including local and regional insurers as well as some of the nation's largest carriers - NAMIC members collectively write \$467 billion in annual premiums, representing 61% of the homeowners and 53% of the automobile insurance markets. For more than 130 years, NAMIC has been the leading voice advancing public policy solutions and regulatory frameworks that promote a strong, competitive market and protect our members and their policyholders.

NAMIC appreciates the bill sponsors' desire to assist insurers and homeowner's insurance policyholders in their contractual disputes. However, we believe that the proposed creation of an Ombudsman's Office is unnecessary, and likely to create serious legal due process of law protection concerns for the parties. NAMIC is also concerned that the broad legal and regulatory authority proposed for the Ombudsman is inconsistent with the constitutional separation of powers between the executive branch (state agencies) and the judicial branch (courts). Further, NAMIC is concerned that a multitude of differing roles and authorized responsibilities of the Ombudsman are inherently in conflict with each other and likely to create legal and regulatory confusion for the parties and lead to inconsistent decisions.

NAMIC respectfully submits the following statement of concerns with the proposed legislation:

A) §431:10E-D Ombudsman; powers and duties; immunity from liability.

- 1) The following provision sets forth an overly-broad and potentially conflicting range of legal and regulatory activities for the ombudsman to engage in as part of the appointed position. The bill states:

(a) The ombudsman shall: (1) Have the power to establish rules and procedures for the operation of the office that shall include receiving and processing complaints and requests for dispute intervention; conducting investigations; enforcement, including fines and penalties; and reporting the findings of the office; ... [emphasis added]

NAMIC is concerned that this grant of authority would empower the ombudsman to be a regulator (establish rules and procedures), an administrator (process complaints), an investigator (conducting investigations and gathering evidence), and an enforcement officer (imposing fines, enforcing penalties and regulatory sanctions). This role inherently is rife with potential for legal conflicts of interest and likely to create procedural due process of law protection issues for the parties.

- 2) We are also concerned with this provision of the proposed section of the bill:

Ombudsman shall (3) Have access to and use of all files and records of the department of commerce and consumer affairs; ...

This raises serious concerns about the protection of insurer confidentiality and proprietary rights. Information provided to the Division of Insurance should not be accessible to and subject to use by a professional who has a public/consumer education function and a quasi-judicial function (Ombudsman has the authority to act as all of the following: investigator, mediator, arbitrator, prosecutor and judge in consumer disputes).

- 3) NAMIC is also concerned with the fact that the ombudsman is directed to engage in a multitude of functions that overlap at times but also have conflicting roles and duties. The bill states that the ombudsman is to be a “neutral resource” and “liaison”, but then the ombudsman is to act as an advisor “make recommendations to the parties”, and then the ombudsman is charged with a quasi-prosecutorial and judicial function of “investigating and resolving disputes”. NAMIC is concerned that this overly-broad granting of authority creates procedural and substantive due process of law protection problems for insurers and parties to the process. These distinct regulatory and judicial functions need to be separated for the protection of the parties. The overlapping and conflicting role of the ombudsman is further illustrated by the fact that this professional is authorized to issue subpoenas in a quasi-judicial role, but also provide recommendations to the Division of Insurance as a regulatory policy consultant.
- 4) NAMIC is also concerned that the ombudsman is authorized to generate a report on its consumer dispute resolution activities for the governor, legislature and public, but there is no stated limitation on what information gathered from the ombudsman’s independent investigations, access of Division of Insurance records, engagement as a “neutral and liaison”, and dispute adjudicator may be shared with the public as part of the report. There is not a single sentence in this section of the bill as to how the privacy rights of insurers or policyholders will be safeguarded and what private identifying/non-public information of the parties will be withheld from inclusion in the report or disclosure to third-parties.

- 5) NAMIC is quite concerned about the potential constitutional due process of law violation implications of this provision of the bill:

20(b) No proceeding or decision of the ombudsman may be reviewed by any court unless the proceeding or decision contravenes this chapter. The ombudsman shall have the same immunities from civil and criminal liability as a judge of the State. The ombudsman and the staff of the ombudsman's office shall not testify in any court concerning matters coming to their attention in the exercise of their official duties except as may be necessary to enforce this part. [Emphasis added]

NAMIC is concerned that this entire provision is a direct usurpation of the exclusive judicial function of the state judiciary by an executive state agency. Denying a party the right to an impartial judicial review of a state agency's administrative decision is clearly a violation of state and federal due process of law. This blurring of the distinction between state agency staff activities and judicial officers of the state is further illustrated by the fact that the provision states that the ombudsman shall have same civil and criminal immunity as that of a judge in the state.

- 6) We are also concerned about a number of provisions in the sections related to "dispute intervention" and "contested case hearings" by the ombudsman. Of particular concern is the provision that states in one section that legal discovery shall be granted to the parties but states in another section that "[t]he ombudsman shall not be bound by the rules of evidence when conducting a hearing ...". NAMIC is concerned that this administrative process is hodge-podge of conflicting rules and quasi-judicial processes that will prevent fair, accurate and consistent resolutions of insurance disputes. The parties to an insurance transaction already have full legal access to the judicial system, including well-established and regulated alternative dispute resolution (mediation and arbitration) so this ombudsman position is unnecessary and likely to create a host of constitutional law and public policy problems that can be completely avoided by leaving the resolution of legal disputes to the judicial function of the state judiciary.

For the aforementioned reasons, NAMIC respectfully requests a NO VOTE ON SB 2949 – why create a costly, administratively flawed, arguably unconstitutional quasi-judicial executive agency office when the state judicial system is an already funded, cost-effective and legally efficient system for resolving insurance contract disputes?

Thank you for your time and consideration. Please feel free to contact me at 303.907.0587 or at crataj@namic.org, if you would like to discuss NAMIC's written testimony.

Respectfully,



Christian John Rataj, Esq.
NAMIC Senior Regional Vice President
State Government Affairs, Western Region

SB-2949

Submitted on: 2/5/2026 2:09:40 PM

Testimony for CPN on 2/13/2026 9:30:00 AM

Submitted By	Organization	Testifier Position	Testify
Cindy Evans	Individual	Support	Written Testimony Only

Comments:

I recently notified and requested approval of renovation to my condo unit. The contractors i chose had to provide \$1 million Liability Insurance for the AOA. I was shocked when at the last minute the contractors were required to insure the Property Management Company for \$1million.

Another example, I bought my condo and started Homeowners Insurance the day of closing. I received a threat from the Property Managment Company that if I did not show proof of homeowners insurance they had an insurance compnay who would do so and I would get billed. Of course I contacted my insurance company and we sent the docs to the property managment company. The response I got was they probably got the documents but did not get the information entered in the computer. "This happens all the time" was what I was told.

Please support this bill. I am very concerned about who or what entities are using the Boards of AOA or PCA to increase insurance costs and come up with requirements that go beyond the intent of the law. Homeowners need an Ombudsman to research and provide a voice of reason.

SB-2949

Submitted on: 2/10/2026 8:39:05 PM

Testimony for CPN on 2/13/2026 9:30:00 AM

Submitted By	Organization	Testifier Position	Testify
Jessica Herzog	Individual	Support	Written Testimony Only

Comments:

Testimony in Support with Amendments – S.B. 2949

Aloha Chair and Members of the Committee,

I support the intent of S.B. 2949. Hawaii homeowners are facing instability in the insurance market, and a structured avenue for dispute intervention is both timely and necessary. Establishing an Ombudsman’s Office for Homeowners Insurance within DCCA is a meaningful step toward restoring confidence and accountability.

The bill appropriately grants investigative authority, subpoena power, enforcement capability, and mandatory participation in dispute intervention. These tools could provide real relief for homeowners who currently have limited leverage when disputes arise.

However, I respectfully urge amendments to strengthen the independence and credibility of this office.

The qualification criteria for the ombudsman require admission to practice before the Hawaii Supreme Court and extensive experience in Hawaii property and casualty insurance and alternative dispute resolution. While expertise is important, this language may unintentionally narrow the candidate pool to a very small circle of industry-connected attorneys. An ombudsman must not only be neutral, but be perceived as neutral.

I recommend broadening eligibility to include individuals with demonstrated expertise in insurance law, consumer protection, or regulatory oversight, **while adding clear conflict-of-interest safeguards to prevent recent industry representation from compromising independence.**

Because the ombudsman’s decisions are binding and participation is mandatory, structural impartiality is essential.

With these amendments to ensure independence and public trust, I support S.B. 2949.

Mahalo for your consideration.

Jessica Herzog
Condo Owner, Waianae
aloha@localparliamentarian.com

LATE

TESTIMONY - COMMENTS FOR SB2949

Committee on Commerce and Consumer Protection (CPN)

DATE: Friday, February 13, 2026
TIME: 9:30 AM
PLACE: Conference Room 229
& VIDEOCONFERENCE
State Capitol
415 South Beretania Street

From: Gregory Misakian (as an individual)

Submitted: 2/13/26

Aloha Chair, Vice Chair, and Members of the CPN Committee,

As all of the bills scheduled for this CPN Committee Hearing are for condominium related legislation, would it not have been more appropriate to have scheduled **SB3309**.

To address the real needs of condominium owners in Hawaii, without either side having to waste money on attorneys, please read on.

My Background

I currently serve as:

- ❖ President, Kokua Council
- ❖ Vice President, Hawaii Alliance for Retired Americans (HARA)
- ❖ Director, Keoni Ana AOA

I previously served on the Waikiki Neighborhood Board from Jan. 2023 to June 2025.

I have been advocating for condominium owners in Hawaii since 2021, when I realized how bad things were here as an owner and from speaking with many other owners. I have a good understanding of HRS 514B and associated laws that govern condominium associations and management companies that oversee them. I also have experience with condominium issues in California for many years as Power of Attorney

for a condominium owner in San Francisco, and have a good understanding of California's Davis-Stirling laws.

I have previously provided numerous testimony to the Legislature, along with others, that mediations in Hawaii for condominium disputes are not working. Mediations cost money, take time, and the majority of mediations from data reported by the DCCA have been unsuccessful. Many homeowners are also reluctant to engage in mediation knowing this, and also knowing that they may be retaliated against. And I also have first hand experience in Hawaii with a condominium related mediation, so I fully understand the process, the expense, and the wasted time with unsuccessful results.

The path forward, and the only path forward to properly address the problem facing Hawaii, is to enact an **Ombudsman's Office for Condominium Owners and Associations**.

**BACKGROUND INFO
AND
REQUEST I RECENTLY SENT TO EVERY STATE LEGISLATOR**

With the passing of Act 189 in 2023, the Hawaii State Legislature recognized that Hawaii has numerous unresolved issues related to disputes within condominium associations that require better laws to protect the public from unwarranted assessments, fines, legal fees, and retaliation.

Act 189 established a Condominium Property Regime (CPR) Task Force to study and make recommendations on issues within Hawaii's condominium laws, including disputes, board governance, and dispute resolution, with reports due to the legislature. The CPR Task Force published their formal findings and recommendations to the Legislature in December of 2023, and the Legislature passed on the baton to the Legislative Reference Bureau in the 2024 session with the passing of Act 43, which provided funding for a study and research report on condominium issues and how they are addressed in five pre-selected States (California, Delaware, Florida, Massachusetts, and Nevada). This report, at a cost of over \$300,000, was published in November 2025 and confirmed that some States have Ombudsman's Offices to assist the public with disputes, and some have additional enforcement elements. Ironically, this report did not include a review of Hawaii, which begs the question why not.

What is well known from years of testimony, numerous reports previously published, the December 2023 CPR Task Force report, and the Legislature via Act 189 (2023) and Act

43 (2024), is that the current structure in Hawaii to address condominium issues and disputes is not working. Hawaii urgently needs to shift to a better and more consumer friendly model, or face continuing discourse, more unnecessary condominium related litigation, and more homeowners at risk of losing their homes or facing unaffordable legal fees.

Better consumer protections are needed to ensure that condominium associations, their Boards, and their Managing Agents are compliant with the laws that govern condominium associations, including governing documents and HRS 514B statutes.

It is time for Hawaii to establish an Ombudsman's Office for Condominium Owners and Associations.

**RESULTS OF MY REACH OUT, WHICH WAS DONE IN JUST ONE WEEK
(From opening day of the 2026 session, Wed. 1/21, to Wed. 1/28.)**

Two Bills: HB2453 and SB3309

My draft preamble and proposed language was simple, and without impacting major changes to current statutes or requiring any State funding. Funding is via a small increase in the Condominium Education Trust Fund fee that all registered condominium associations pay into.

**MY CONCERNS AND REQUESTS TO THE CPR TASK FORCE
AND THE CPC COMMITTEE**

The CPR Task Force should be respectful of their duties, and also respectful to those legislators who enacted a law to convene the Task Force, representing thousands of condominium owners throughout Hawaii.

On agenda at the 1/30/26 CPR Task Force meeting, which I attended, were three draft meeting minutes from 2023 pending approval, and only placed online as a link to the drafts a short time prior to the meeting. This is unacceptable and does not give me or the public a good feeling regarding responsibilities of the Chair and others on the Task Force, and raises concerns regarding transparency. Not surprising, these three meeting minutes from over 2 years ago were still not approved at the 1/30/26 meeting. I am also unable to find a link to testimony I and others submitted to the Task Force.

To the Chair of the CPR Task Force, who did not convene a meeting of the Task Force prior to the start of the 2026 legislative session, and prior to the deadline to introduce legislation, the clear and obvious question is why not? This Task Force had an opportunity to meet and provide inputs prior to the 2026 session. You had the findings of the Legislative Reference Bureau's 5 State report since November of last year.

As we sadly watch the unrest in the State of Minnesota, where two sides disagree and there is conflict, it should be noted that **the State of Minnesota enacted legislation last year to create an Ombudsman's Office for condominium disputes.**

The Common Interest Community Ombudsperson is established under Minnesota Statutes, section 45.0137. This law creates the position within the Minnesota Department of Commerce to:

- 1. Assist unit owners, tenants, and associations in understanding their rights and responsibilities under Minnesota Statutes, Chapter 515B (the Minnesota Common Interest Ownership Act) and their governing documents.*
- 2. Facilitate informal resolution of disputes between unit owners and associations.*

I am requesting that the CPR Task Force, the CPN Committee, and our legislators please act, and with urgency, on the issues and concerns that need attention and the clear and correct legislation that is needed now.

The State of Hawaii urgently needs an Ombudsman's Office for condominium owners and associations, and numerous States with many condominiums and many complaints have recognized this and have Ombudsman's Offices.

Respectfully,

Gregory Misakian